



STATE OF MONTANA DEPARTMENT OF REVENUE JOB PROFILE

Working Title

Dispute Resolution Officer

Job Code Title

Administrative Law Judge

Pay Band

07

Job Code Number

232217

Director's Office

Legal Services Office
Office of Dispute Resolution

Fair Labor Standards Act

Exempt

The Montana Department of Revenue administers more than 30 state taxes and fees; establishes values for taxable property, including agricultural land, residential real estate, commercial real estate, forest land, business equipment, railroads and public utilities; supervises the operation of the state liquor stores and agencies and administers the laws governing the sale, taxation, and licensing of alcoholic beverages; and returns unclaimed property to its rightful owners.

The Director's Office supports the agency's Director and is composed of five work units: Legal Services Office; Office of Tax Policy and Research; Office of Human Resources and Organizational Development; Office of Taxpayer Assistance; and the Executive Office. The Legal Services Office provides complete legal services to all divisions and the Director's Office, representing the department and the State of Montana before administrative boards and in state and federal courts in all litigation involving Montana taxes and liquor laws. The office also handles all administrative rule, disclosure, and dispute resolution matters for the department. The Legal Services Office is comprised of the Litigation Unit, the Regulatory Unit, and the Office of Dispute Resolution (ODR). The Office of Dispute Resolution conducts hearings to resolve disputes and assure due process for parties disputing facts and/or law involving administration of tax and liquor laws.

Job Responsibilities

The Dispute Resolution Officer conducts formal and informal hearings of tax and liquor licensing issues and may hear or mediate disputes between department staff and external customers to adjudicate a range of issues related to department functions and ensure consistency in the application of laws and rules. Provides fair, timely, and impartial administrative hearings and decisions and ensures consistency in the dispute resolution process. This involves researching pertinent law related to disputes, drafting written hearing decisions, and mediating settlement agreements. In addition to conducting adjudication with the agency as a party, the incumbent adjudicates matters between outside parties other than the agency such as protests of licensing applications. The position reports to the Chief Legal Counsel and does not supervise other staff.

• Conducts Hearings 40%

1. Receives hearing requests. Schedules and conducts pre-hearing conferences through correspondence and telephone with the parties or their representatives to define and narrow issues considered in the hearing. Reviews and rules on discovery, motions, and requests. Identifies witnesses and exhibits. Reviews hearing procedures with the involved parties. This may include issuing subpoenas or providing testimony by deposition to ensure all relevant testimony is heard.

2. Schedules all department and taxpayer-related disputes and liquor licensing adjudication by determining time, place, and procedure necessary to expedite the particular hearing. Explains and interprets the appropriate laws and rules. Works with unrepresented parties and counsel not familiar with administrative procedures or labor law to ensure rules and regulation regarding appeal processes and individual rights are maintained.
 3. Identifies cases that are amenable to mediation or settlement and works with parties to facilitate an agreement as opposed to adjudication requiring a decision by considering issues and interests of involved parties.
 4. Presides over and conducts formal and informal hearings concerning income, business, and miscellaneous taxes and liquor licenses to allow parties to pursue or defend their rights under applicable law. This includes administering oaths and affirmations; hearing arguments, analyzing information, and ruling on the admission of evidence and on various motions made by the parties; applying rules of evidence; controlling the course of the hearing; acting on procedural requests; obtaining stipulations of fact if offered; and calling or questioning witnesses as required for a complete record.
 5. Situations are often tense and strained. Parties and witnesses are often hostile and antagonistic towards each other. Liquor protest and violation hearings can be particularly volatile. The Dispute Resolution Officer must maintain control over such discordant, precarious, and unpredictable proceedings.
- **Preparing Decisions 45%**
 1. Observes oral argument when it has been requested by the parties. Reviews the evidence and makes determinations with respect to witnesses' credibility and weight to be given evidence. Develops knowledge of the case by integrating information and data given by witnesses and documentary evidence. Analyzes findings to ensure they are supported by the evidence and are sufficient to support the decision.
 2. Researches laws and rules on case subject matter to arrive at a conclusion of law based on the findings of fact and judgment of how the law should be applied by using general reference sources and indexes; determining major category in which to place issues; reading numerous cases from federal and state courts to compare with issue at hand; making a determination of what the current law is on the subject; and applying current law to facts of the case.
 3. Drafts and issues findings of fact, conclusions of law, opinions, and orders to inform parties of the decision and to establish precedence for future decisions. Analyzes and evaluates the substantial evidence on the record in light of legal research. Writes final agency decisions using language that will be understood by the parties to ensure clear and legally defensible hearing decisions and mediation settlement agreements by stating findings in clear and concise language; summarizing the issues to be decided; describing the logic used to arrive at the decision to bridge the gap between the findings of fact and conclusions of law; and stating concisely the conclusion of law.
 4. Responsible for maintaining confidential, sensitive information and evidence in contested cases.
 - **Administering the Office of Dispute Resolution 10%**
 1. Coaches and mentors staff. Assigns and evaluates work. Assists with hiring.
 2. Reviews new and anticipated changes in federal and state laws governing department rules, policies, procedures, and program operations to ensure federal and state requirements are being met and that the due process rights of individuals or parties are being protected.
 3. Suggests changes to policies and procedures to accommodate new legal requirements and strategies to implement them. Informs the chief legal counsel of potential problem areas including contacts by disgruntled parties. Relays the problems and possible resolutions allowing adequate time for the chief legal counsel to make decisions and respond.
 4. Alerts, discusses, and makes recommendations regarding the need to adopt or amend department administrative rules or policies when the incumbent recognizes problems in existing rules or policies regarding such matters as ambiguity, absence of language, or conflict.

5. Provides input on the need for new legislation as well as amendments which may be necessary to existing legislation.
6. Accountable for case management functions. Reviews assigned cases to ensure the appropriate steps in the appeal process are being taken in a timely manner.

- **Other Duties as Assigned 5%**

1. Performs other duties as assigned by the supervisor.

Job Requirements

To perform successfully as a dispute resolution officer, the incumbent must be self-motivated; possess a strong work ethic; maintain a positive attitude; and enjoy working with, and for, the public. It is essential that the incumbent has the ability to elicit facts and evidence during the hearing; interpret evidence; and apply laws and rules. Skills in written, oral, and interpersonal communication; analyzing testimony and evidence; legal research methods; interpreting and developing conclusions based on legal authority; managing conferences and hearings; and conflict resolution are required. This position works with highly confidential financial and tax information and is required to maintain the highest level of confidentiality regarding all information acquired or used in performing this job.

This position requires knowledge of appeal processes and timelines; administrative law and applicable state and federal laws, rules, and regulations regarding appeal processes and rights; legal tools and resources; and rules of evidence and administrative hearing procedures.

- The minimum level of education and job-related work experience needed as a new employee **on the first day** of work is a bachelor's degree in taxation, accounting, business administration, economics, or law and five years of job-related work experience.
 - Work experience should be made up of professional experience involving administrative adjudication, auditing, tax research, tax or liquor license appeals, customer disputes including mediation and settlement efforts and experience in the preparation of decisions addressing sensitive and controversial subject matters.
 - Other combinations of education and experience will be evaluated on an individual basis.

Department Core Values

- **Respect:** As a representative of the people of Montana, proceeds with the highest level of respect for the dignity of every person contacted through work. Without exception, all people are treated as equally as possible. The employee is a faithful steward of the resources provided to this agency by the citizens of Montana.
- **Integrity:** Conducts work honestly and makes decisions that establish a clear record that the department serves the public with integrity. Apologizes for mistakes and gives credit to others for their cooperation, work, and ideas in achieving positive results. Accountable for their actions and holds others accountable for theirs. Decisions and judgments achieve equity and justice for all parties involved including citizens and co-workers.
- **Productivity:** Consistently strives to minimize the waste of the department's financial, facilities, and human resources. Diligently works to improve the productivity and effectiveness of the work unit. Welcomes and encourages new ideas on improving the results of the department from the public, other officials, colleagues, and supervisors. Approaches work in a manner that builds goodwill, trust, and cooperation internally with other staff and externally with the public.
- **Teamwork:** Maximizes cooperation and teamwork when working with other employees, divisions, and other state agencies. Willing to work with others for the opportunity to learn from their ideas, talents, and knowledge. Seeks to resolve conflicts with other employees and work units in an open and respectful manner that reinforces teamwork. Celebrates the successes of others.

Working Conditions

This position has considerable mental stress and pressure due to issues, workload, deadlines, time constraints, significance of decisions made, and challenging nature of contacts. At times, the incumbent

will deal with angry, hostile, and difficult individuals to resolve concerns or to bring about compliance with regulations. This may cause stressful work conditions and a high degree of mental stress. As a Department of Revenue employee, the incumbent may come into contact with highly confidential financial and tax information and is required to maintain the highest level of confidentiality regarding all information acquired or used in performing this job. Work hours routinely exceed 40 hours per week. This position requires considerable computer and keyboard use. The incumbent may spend considerable time on the phone. Lifting is infrequent, less than 15 pounds and includes carrying light items such as papers and books. This job requires regular attendance as scheduled by the supervisor. This job cannot be performed at an alternate work site.

Special requirements

- Background Examination: Applicants for this position will be subject to a criminal background review before being considered for employment. Individual circumstances involving a criminal conviction will be reviewed to determine an applicant's eligibility for employment.
- Compliance with All Appropriate Montana Tax Laws: An employee's tax status must be current.

This job profile was produced by the Office of Human Resources in conjunction with the appropriate managers.

Division Administrator Review: The statements in this job profile are accurate and complete.

Signature: C.A. Daw, Chief Legal Counsel Date: August 2010

Human Resource Director Review: The Office of Human Resources has reviewed this job profile.

Signature: JeanAnn Scheuer, Human Resources Director Date: August 2010

Employee: My signature below indicates I have read this job profile and discussed it with my supervisor.

Signature: _____ Date: _____

Name (print): _____